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 21

22 **UNITED STATES DISTRICT COURT**
 23 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
 24

25 CORY SPENCER, an individual;
 26 DIANA MILENA REED, an
 individual; and COASTAL
 27 PROTECTION RANGERS, INC., a
 28 California non-profit public benefit

CASE NO. 2:16-cv-02129-SJO (RAOx)
**PLAINTIFFS' OBJECTIONS TO
 EVIDENCE SUBMITTED IN
 SUPPORT OF DEFENDANTS CITY
 OF PALOS VERDES ESTATES AND
 CHIEF OF POLICE JEFF KEPLEY'S**

Case No. 2:16-cv-02129-SJO (RAOx)

PLTFS.' OBJS. TO EVID. SUBMITTED ISO DEFTS. CITY AND KEPLEY'S REPLY TO PLTFS.'
 SUPPLEMENTAL OPPOSITION TO THE CITY'S MOTION FOR SUMMARY JUDGMENT

1 corporation,

2 Plaintiffs,

3 v.

4 LUNADA BAY BOYS; THE
5 INDIVIDUAL MEMBERS OF THE
6 LUNADA BAY BOYS, including but
7 not limited to SANG LEE, BRANT
8 BLAKEMAN, ALAN JOHNSTON
9 AKA JALIAN JOHNSTON,
10 MICHAEL RAE PAPAYANS,
11 ANGELO FERRARA, FRANK
12 FERRARA, CHARLIE FERRARA,
13 and N. F.; CITY OF PALOS VERDES
ESTATES; CHIEF OF POLICE JEFF
KEPLEY, in his representative
capacity; and DOES 1-10,

14 Defendants.

**REPLY TO PLAINTIFFS'
SUPPLEMENTAL OPPOSITION TO
THE CITY'S MOTION FOR
SUMMARY JUDGMENT**

Complaint Filed: March 29, 2016
Trial Date: December 12, 2017

Plaintiffs Cory Spencer, Diana Milena Reed and Coastal Protection Rangers, Inc. (collectively referred to as "Plaintiffs") hereby object to the following evidence presented by Defendants City of Palos Verdes Estates and Chief of Police Jeff Kepley's In Support of Their Reply to Plaintiffs' Supplemental Opposition to the City's Motion for Summary Judgment, filed on October 27, 2017.

I. OBJECTIONS TO THE DECLARATION OF CHRISTOPHER D. GLOS IN SUPPORT OF DEFENDANTS CITY OF PALOS VERDES ESTATES AND CHIEF OF POLICE JEFF KEPLEY'S REPLY TO PLAINTIFFS' SUPPLEMENTAL OPPOSITION TO THE CITY'S MOTION FOR SUMMARY JUDGMENT (Dkt. No. 502-5.)

<u>Evidence:</u>	<u>Objections:</u>
1. "... the City-owned flip phone [was] used without City knowledge by Defendant Blakeman." (Glos Dec., ¶ 8.)	1. The declarant (outside counsel for the City of Palos Verdes) failed to lay a foundation to support a finding that he has personal, first-hand knowledge of this asserted fact. (FRE 603.) Moreover, Defendant Blakeman testified during his deposition that the City provided the phone to him. (Franklin Dec. in Opp. to Def. City's MSJ, Ex. 3 , 14:8-15:17 [Dkt. No. 305].)
2. "... the City-owned cell phone [was] used without the City's knowledge by Mr. Blakeman." (Glos Dec., ¶ 12.)	2. The declarant (outside counsel for the City of Palos Verdes) failed to lay a foundation to support a finding that he has personal, first-hand knowledge of this asserted fact. (FRE 603.) Moreover, Defendant Blakeman testified during his deposition that the City provided the phone to him. (Franklin

<u>Evidence:</u>	<u>Objections:</u>
	Dec. in Opp. to Def. City's MSJ, Ex. 3 , 14:8-15:17 [Dkt. No. 305].)

II. OBJECTIONS TO THE DECLARATION OF TONY BEST IN SUPPORT OF DEFENDANTS CITY OF PALOS VERDES ESTATES AND CHIEF OF POLICE JEFF KEPLEY'S REPLY TO PLAINTIFFS' SUPPLEMENTAL OPPOSITION TO THE CITY'S MOTION FOR SUMMARY JUDGMENT (Dkt. No. 502-4.)

<u>Evidence:</u>	<u>Objections:</u>
3. "Based on my review of the property chain-of-custody form, other than as may have been required for the criminal investigation and/or the criminal prosecution, the NF phone has been maintained in a sealed evidence folder by Property and Evidence." (Best Dec., ¶ 5.)	3. The declarant's statement about the content of the chain-of-custody form is hearsay. (FRE 801.) The declarant also has not complied with the original document rule. (FRE 1002.) The statement also is not relevant because the declarant does not state whether the phone has or has not been removed from a sealed evidence folder since September 2015, or, if it was removed from the sealed evidence folder, what was done with the phone. (FRE 401.)

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1 DATED: October 31, 2017

HANSON BRIDGETT LLP

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4 By: /s/ Lisa M. Pooley

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